

**Rule(s) Review Checklist Addendum**  
(This form must be filled out electronically.)

**This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.**

All responses should be in **bold** format.

Document Reviewed (include title): **WAC 458-20-208**  
**Accommodation sales**

Date last reviewed: **September 24, 1997**

Current Reviewer: **JoAnne Gordon**

Date current review completed: **September 11, 2001**

Is this document being reviewed at this time because of a taxpayer or association request? (If “YES”, provide the name of the taxpayer/association and a brief explanation of the issues raised in the request). **YES** ☐ **NO** ☒

Type an “x” in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

**1. Briefly describe the subject matter of the rule(s):**

**WAC 458-20-208 explains the wholesaling business and occupation (B&O) tax exemption that applies to accommodation sales of tangible personal property between persons selling similar property. In addition, the rule provides tax-reporting instructions for sellers claiming the exemption.**

**2. Related statutes, interpretive statements, court decisions, BTA decisions, and WTDs:** (Excise Tax Advisories (ETAs), Property Tax Advisories (PTAs), Property Tax Bulletins (PTBs) and Audit Directives (Ads) are considered interpretive statements.)

YES	NO	
X		Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	X	Are there any interpretive statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)



	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	X	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

- **Chapter 258, Laws of 2001. This recent legislation provides a wholesaling B&O tax exemption for sales of new motor vehicles between new car dealers selling the same make of vehicles when the purpose of the sale is to adjust inventory levels. The exemption should be incorporated at such time as the rule is revised.**

**3. Additional information:** Identify any additional issues (other than that noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

- **At such time as WAC 458-20-208 is revised, the rule drafter should consider defining the term “holdback” and clarifying when manufacturer’s holdbacks are included and excluded from the “amount paid by the seller to his vendor.”**
- **When the rule is revised, it should also be drafted in the format currently used for the Department’s administrative rules and gender specific language should be eliminated.**

**4. LISTING OF DOCUMENTS REVIEWED:** The reviewer need identify only those documents that were not listed in the previous review of the rule(s). (Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive statements, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented:

Interpretive statements (e.g., ETAs and PTAs):

Court Decisions:

Board of Tax Appeals Decisions (BTAs):



Administrative Decisions (e.g., WTDs):

- **Det. No. 00-043, 20 WTD 39 (2001).** This determination explains the two statutory requirements of the B&O tax exemption for accommodation sales. In doing so, the determination notes that the initiating buyer must maintain appropriate documentation verifying the existence of a bona fide customer order at the time of the accommodation sale occurred.

Attorney General's Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

- **Washington State Auto Dealer's Guide to Excise Taxes:** Provides information about accommodations sales and various other reporting issues.
- **Special Notice – Tax Changes Relating to Vehicle Dealers:** Discusses the B&O tax exemption for wholesale sales of new motor vehicles between new car dealers of the same make in order to adjust inventory levels.

#### 4. Review Recommendation:

<u>  X  </u>	<b>Amend</b>
<u>      </u>	<b>Repeal</b> (Appropriate when repeal is not conditioned upon another rule-making action.)
<u>      </u>	<b>Leave as is</b> (Appropriate even if the recommendation is to incorporate the current information into another rule.)
<u>      </u> the	<b>Begin the rule-making process for possible revision.</b> (Applies only when Department has received a petition to revise a rule.)

**Explanation of recommendation:** Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or



- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).

**The recommendation to amend WAC 458-20-208 is consistent with that of the previous rule review. In addition to incorporating the ancillary documents noted from the previous review, the rule revision should incorporate Chapter 258, Laws of 2001, clarify the effect of manufacturer's holdbacks, and eliminate gender specific language. The revised rule should be drafted in the format currently used for the Department's other excise tax rules.**

**5. Manager action:**    Date: \_\_\_\_\_

\_\_\_\_\_ Reviewed and accepted recommendation

Amendment priority:

- \_\_\_\_\_ 1
- \_\_\_\_\_ 2
- \_\_\_\_\_ 3
- \_\_\_\_\_ 4